

Official Report of the Linn County Attorney Regarding the Investigation into the Death of Paul Robert Saldivar

CEDAR RAPIDS, IA — On October 24, 2012, the Iowa Division of Criminal Investigation referred their investigative file to this office requesting a legal review concerning the circumstances of the May 10th arrest of Paul Robert Saldivar (DOB 4/26/79). The investigative report details the events surrounding the arrest of Saldivar who became unresponsive and unconscious while in police custody and was transported for medical treatment to Mercy Hospital where he died on May 17th, 2012, after being taken off life support.

The investigative file is quite extensive and includes approximately forty (40) different reports from several different law enforcement agencies including the Cedar Rapids Police Department, the Linn County Sheriff's Department, the Iowa Division of Criminal Investigation, and the Iowa State Medical Examiner's Office. The investigative file essentially includes written reports and statements by all law enforcement officers and civilians that had contact with Paul Saldivar on the night of his arrest up to the time he was transported to the Linn County Jail and later to Mercy Medical Hospital for emergency care and treatment. The case file also includes medical records from Mercy Hospital, an autopsy report from the State Medical Examiner's Office, and interview summaries from family members of the decedent.

Paul Robert Saldivar first came to the attention of Cedar Rapids Police Officers on May 10, 2012, at approximately 11:09 p.m. when Officer Shannon Aguero performed a bar check at the Hazard County Bar located at 329 Second Avenue SE in Cedar Rapids, Iowa. As Officer Aguero approached, she was contacted by patrons of the bar who indicated that a subject inside had been causing problems and had been previously escorted from the bar that same evening. The patrons drew the officer's attention to Saldivar, who was walking back into the bar but exited shortly thereafter.

Officers checked with employees at Hazard County Bar who advised they had asked Saldivar to leave because he appeared intoxicated and had trouble maintaining his balance, nearly falling over a couple times. They also indicated Saldivar had caused problems with patrons inside the bar by bumping into people and by groping female customers. As Officer Aguero left the bar to make contact with Saldivar, an employee of the bar suggested that another officer accompany her because it was common for Saldivar to fight.

Officer Aguero then requested backup but, when she exited the bar, she observed Saldivar walking towards the back parking lot. He appeared to be stumbling and exhibited poor balance. From about twenty (20) to twenty-five (25) yards away, Officer Aguero identified herself as a peace officer and asked Saldivar to come talk with her. Saldivar responded by breaking into a run and ignored several commands to stop. Officer Aguero gave chase for a short distance until Saldivar ran toward the alley in the 300 block between Second and Third Avenue SE. The alley was poorly lit so she walked back to Second Avenue to wait for backup units to arrive.

Officer Gabriel Hepke was the first backup officer to arrive and, after obtaining a physical description of Saldivar, drove his squad car west bound through the alley between Second and Third Avenue and located Saldivar walking down the alley. He made contact with Saldivar who stopped and identified himself with an Iowa identification card. During his contact with Saldivar, Officer Hepke noted several signs of insobriety about Saldivar who admitted that employees at the Hazard County Bar had asked him to leave.

Officers ran a routine warrant check on Saldivar and found there was an outstanding warrant for him out of the state of Illinois. While waiting for this information, Saldivar became verbally abusive and agitated with officers. When officers advised he was being placed under arrest for public intoxication and interference with official acts, Saldivar replied, "I don't give a fuck if you're arresting me." Officers placed handcuffs on Saldivar and began to escort him to a squad car. However, as they approached the squad car, Saldivar tensed up his body and resisted officers' efforts to place him in the back seat of the squad car.

Saldivar physically resisted by pushing backwards against officers, refused to bend down to enter the back seat and stated, "I am not getting into the car." When Saldivar refused to crouch down, one officer delivered a couple knee strikes to the back of his thigh while another officer used his hands to shield the top of Saldivar's head so that he could be placed in the back seat of the squad car without injury.

After he had been placed into the back seat, Saldivar refused to pull his feet into the squad car and had to be pulled across the back seat by a third police officer so that the rear driver's side door could be closed. Saldivar continued to resist officers and refused to sit upright in the seat. It became necessary to pull Saldivar laterally across the back seat in order to secure both doors. The limited use of force by peace officers in directing Saldivar into the squad car was not excessive and was both reasonable and necessary to accomplish their lawful purpose of transporting an arrestee to jail on criminal charges.

Officer Aguero transported Saldivar to jail in her squad car and was followed by Officer Hepke. During the transport to the jail, Saldivar, who initially was lying on his right side, continued to thrash about in the back seat, kicking at one door while striking his head on the armrest of the other door. Officer Aguero advised Saldivar to stop kicking the door but he responded by directing derogatory remarks to her and continued to kick at one door while striking his head against the armrest of the other door.

Saldivar eventually stopped thrashing about as they neared the jail and Officer Aguero alerted deputies at the jail that she needed assistance escorting Saldivar into the jail because he had been combative. She was advised there would be a slight wait to enter the sally port to the jail because it was occupied. While waiting for the sally port door to open, she attempted to communicate with Saldivar who did not respond to her efforts. He appeared to have moved from his right side to his stomach once they arrived at the jail. Unfortunately, Officer Aguero's squad car was not equipped with a video recording device so there is no audio-video recording of this episode. Records indicate the squad car arrived at the jail at approximately 11:30 p.m. and was admitted into the sally port at approximately 11:35 p.m.

After Officer Aguero drove her squad car into the sally port, one of the deputies who had assembled to assist opened the rear passenger side door to find Saldivar lying on his stomach with his head resting against the door panel of the vehicle. Saldivar was unresponsive and deputies were unable to detect a pulse. Deputies then moved him to his side and noted that his lips were purple and that his face had a slight tinge of blue to it. He did not appear to be breathing and deputies pulled Paul Saldivar from the vehicle and immediately began resuscitation efforts. Officers began CPR by administering chest compressions and breath respirations and an ambulance was requested at 11:36 p.m. Officers continued their resuscitation efforts until Area Ambulance arrived at approximately 11:39 p.m. Paramedics were able to detect a pulse but shortly thereafter a cardiac monitor indicated the pulse had been lost and a shock was administered with the use of an automated external defibrillator (AED). A heart pulse was re-established and resuscitation efforts continued until the ambulance departed for Mercy Medical Center at 11:59 p.m.

Paul Saldivar was in critical condition when admitted to Mercy Hospital and never regained consciousness. Attending physicians noted no visible signs of trauma or injury and concluded Saldivar may have experienced an episode of cardiac arrest likely due to aspiration. Medical tests revealed no illegal drugs in his system but his blood alcohol concentration was found to be 299.3 ng/dl. Physicians at the hospital continued administering critical care to Saldivar but medical tests revealed "no evidence of acute intracranial process." Eventually, family members made the difficult decision of removing Paul Saldivar from life support after being told there was no brain activity and he died on May 17th, 2012.

On May 19th an autopsy was performed by Dr. Jonathan G. Thompson, Associate State Medical Examiner, at the Iowa State Medical Examiner's Office in Ankeny, Iowa. Dr. Thompson concluded that Paul Saldivar died as a result of "positional asphyxia." Positional asphyxia occurs when a person's posture hinders their ability to breathe. Dr. Thompson indicated that blockage of the airway can sometimes result when a person's head is tilted in an awkward position or when the chin is positioned close to the chest region.

The pathologist also found that “acute ethanol intoxication” was a significant factor in the cause of death. Alcohol acts as a respiratory depressant and may have hindered Paul Saldivar’s ability to breathe when his neck was positioned in such a way as to block the natural flow of oxygen into his body. Dr. Thompson advised that a person could suffer brain death when the flow of oxygen is obstructed for as little as two minutes.

The State Medical Examiner’s Office ruled that the manner of death was “Accident” and acute alcohol intoxication was a significant contributing factor to the medical cause of death.

The medical cause of death as determined by the pathologist as well as his findings and medical conclusions corroborate the accounts given by peace officers involved in the arrest of Paul Saldivar. Cedar Rapids police officers followed proper police procedures during the arrest of Paul Saldivar and his transport to the Linn County Jail. Peace officers swiftly administered medical assistance to Saldivar when they discovered he was in medical distress and acted decisively in their resuscitation efforts until relieved by medical paramedics. Having thoroughly reviewed the investigative file, I concur with the conclusion of the Iowa State Medical Examiner that the death of Paul Robert Saldivar was accidental in nature and that there is no evidence to suggest that criminal charges would be appropriate.